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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,541	03/30/2004	Awdhoot Vasant Kerkar	FDN-2831	3421

7590 11/20/2007
William J. Davis
Building Materials Investment Corporation,
Legal Department
1361 Alps Road
Wayne, NJ 07470

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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11/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/812,541

Applicant(s)

KERKAR ET AL.

Examiner

Alicia Chevalier

Art Unit

1794

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-3, 5-8 and 10.
Claim(s) withdrawn from consideration: 11-18.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation Sheet

Continuation of 11. because: It remains the Examiner's position that the claims are unpatentable for reasons previously of record in the final office action.

Response to Applicant's Arguments

1. Applicant's arguments in the after final response filed November 13, 2007 regarding the 35 U.S.C. 103(a) rejection over Algrim et al. (U.S. Patent No. 4,738,884) in view of Fasold et al. (U.S. Patent No. 2,326,724) and evidenced by Wikipedia of record have been carefully considered but are deemed unpersuasive.

Applicant argues that Fasold teaches applying talc to the bituminous coating on the entire surface, instead of the claimed "wherein said release coating is disposed only on a pressure point portion of said bottom surface."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Fasold reference was not relied upon to disclose that a release coating only disposed on a pressure point portion. Fasold was relied upon to disclose the use of talc particles as a release agent.

Applicant argues that combining Algrim with Fasold would teach one of ordinary skill in the art to apply talc to the entire surface.

The examiner disagrees with this interpretation of the combination of the references. Algrim does not require a release coating that covers the entire bottom surface (*Algrim, col. 5, lines 19-27*). Therefore, adding the release particles of Fasold to the release material of Algrim does not change Algrim's release coating requirements from just pressure points to the entire bottom surface.

Applicant argues that one of ordinary skill in the art would not look at the talc taught in Fasold, which is to be applied to the entire surface of the roofing material, and combine it with Algrim to apply it to only the release material. Applicant further points out that Algrim discloses a different material to be used for the release material.

Applicant has not clearly pointed out why one of ordinary skill in the art would not look at the talc taught in Fasold. Fasold clearly states that talc particles help prevent sticking between adjacent layers of roofing material in a package (*Fasold, col. 1, lines 26-31*) and Algrim clearly desires the same thing (*Algrim col. 5, lines 19-27*). Fasold and Algrim are both solving a similar problem, e.g. preventing adjacent layers of roofing material from sticking together, therefore one of ordinary skill in the art would look to both Fasold and Algrim to solve the problem.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

11/19/07


ALICIA CHEVALIER
PRIMARY EXAMINER